

AMENDED IN ASSEMBLY APRIL 23, 2013

AMENDED IN ASSEMBLY APRIL 4, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 341

Introduced by Assembly Members Dickinson and Gordon

February 13, 2013

An act to amend Sections 18930, 18930.5, ~~18931.6~~, and 18931.7 of, and to add Sections 18930.6 and 18940.5 to, the Health and Safety Code, relating to green building standards.

LEGISLATIVE COUNSEL'S DIGEST

AB 341, as amended, Dickinson. Green building standards.

Existing law requires the California Building Standards Commission to codify all building standards of adopting agencies or state agencies that propose the building standards and statutes defining building standards into one California Building Standards Code. Existing law provides that if no state agency has the authority or expertise to propose green building standards applicable to a particular occupancy, the commission shall adopt, approve, codify, update, and publish green building standards for those occupancies.

This bill would require the commission to encourage and solicit recommendations for code updates relating to green building standards from state agencies with the authority and expertise to propose green building standards applicable to a particular occupancy. The bill would require these agencies to submit recommended code updates for the next 2 California Building Standards Code adoptions and to indicate whether the recommended code updates are intended to be voluntary

or mandatory green building standards. The bill would require the commission to compile the recommendations by adoption cycle and by whether the recommendations are for voluntary or mandatory green building standards. The bill would also require the commission to perform an analysis of existing green building standards before adopting, approving, codifying, updating, and publishing green building standards.

The bill would require the commission to define the intent, criteria, and schedule for establishing green building standards and transitioning voluntary standards into mandatory, codified standards.

~~Existing law authorizes a city, county, or a city and county to collect a fee from an applicant for a building permit assessed at the rate of \$4 per \$100,000 in valuation, as specified.~~

~~This bill would change the rate at which this fee is assessed to an unspecified amount.~~

Existing law requires that funds deposited into the Building Standards Administration Special Revolving Fund be expended, upon appropriation, to carry out specified provisions of law that relate to building standards, with emphasis placed on the development, adoption, publication, updating, and educational efforts associated with green building standards.

This bill would expand these provisions to authorize the expenditure of those funds by the commission in performing an analysis of existing green building standards and for carrying out verification protocols relating to building standards, including, but not limited to, training and guidance for local building officials in jurisdictions that have adopted Tier 1 and Tier 2 green building standards.

Existing law provides that codification of building standards approved by the commission shall be incorporated into the code and shall not be incorporated into other individual titles of state agencies in the California Code of Regulations.

This bill would require the commission, during the 2016 code adoption cycle, to integrate all provisions of the California Green Building Standards Code into the appropriate sections of the California Code of Regulations, as specified. The bill would also authorize the commission to publish or allow to be published a guide to the green building standards as an appendix to the code.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 18930 of the Health and Safety Code is amended to read:

18930. (a) Any building standard adopted or proposed by state agencies shall be submitted to, and approved or adopted by, the California Building Standards Commission prior to codification. Prior to submission to the commission, building standards shall be adopted in compliance with the procedures specified in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. Building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency or state agency that proposes the building standards which shall, to the satisfaction of the commission, justify the approval thereof in terms of the following criteria:

(1) The proposed building standards do not conflict with, overlap, or duplicate other building standards.

(2) The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.

(3) The public interest in safer, healthier, and more resource efficient buildings requires the adoption of the building standards.

(4) The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.

(5) The cost to the public is reasonable, based on the overall benefit to be derived from the building standards.

(6) The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part.

(7) The applicable national specifications, published standards, and model codes have been incorporated therein as provided in this part, where appropriate.

(A) If a national specification, published standard, or model code does not adequately address the goals of the state agency, a statement defining the inadequacy shall accompany the proposed building standard when submitted to the commission.

(B) If there is no national specification, published standard, or model code that is relevant to the proposed building standard, the state agency shall prepare a statement informing the commission and submit that statement with the proposed building standard.

1 (8) The format of the proposed building standards is consistent
2 with that adopted by the commission.

3 (9) The proposed building standard, if it promotes fire and panic
4 safety, as determined by the State Fire Marshal, has the written
5 approval of the State Fire Marshal.

6 (b) In reviewing building standards submitted for its approval,
7 the commission shall consider only the record of the proceedings
8 of the adopting agency, except as provided in subdivision (b) of
9 Section 11359 of the Government Code.

10 (c) Where the commission is the adopting agency, it shall
11 consider the record submitted to, and considered by, the state
12 agency that proposes the building standards and the record of
13 public comment that results from the commission's adoption of
14 proposed regulations.

15 (d) (1) The commission shall give great weight to the
16 determinations and analysis of the adopting agency or state agency
17 that proposes the building standards on each of the criteria for
18 approval set forth in subdivision (a). Any factual determinations
19 of the adopting agency or state agency that proposes the building
20 standards shall be considered conclusive by the commission unless
21 the commission specifically finds, and sets forth its reasoning in
22 writing, that the factual determination is arbitrary and capricious
23 or substantially unsupported by the evidence considered by the
24 adopting agency or state agency that proposes the building
25 standards.

26 (2) Whenever the commission makes a finding, as described
27 in this subdivision, it shall return the standard to the adopting
28 agency or state agency that proposes the building standards for a
29 reexamination of its original determination of the disputed fact.

30 (e) Whenever a building standard is principally intended to
31 protect the public health and safety, its adoption shall not be a
32 "factual determination" for purposes of subdivision (d). Whenever
33 a building standard is principally intended to conserve energy or
34 other natural resources, the commission shall consider or review
35 the cost to the public or benefit to be derived as a "factual
36 determination" pursuant to subdivision (d). Whenever a building
37 standard promotes fire and panic safety, each agency shall, unless
38 adopted by the State Fire Marshal, submit the building standard
39 to the State Fire Marshal for prior approval.

1 (f) Whenever the commission finds, pursuant to paragraph (2)
2 of subdivision (a), that a building standard is adopted by an
3 adopting agency pursuant to statutes requiring adoption of the
4 building standard, the commission shall not consider or review
5 whether the adoption is in the public interest pursuant to paragraph
6 (3) of subdivision (a).

7 SEC. 2. Section 18930.5 of the Health and Safety Code is
8 amended to read:

9 18930.5. (a) The commission shall encourage and solicit
10 recommendations for code updates relating to green building
11 standards from state agencies with the authority and expertise to
12 propose green building standards applicable to a particular
13 occupancy. These agencies shall submit recommended code
14 updates for the next two California Building Standards Code
15 adoptions. The agencies shall indicate whether the recommended
16 code updates are intended to be voluntary or mandatory green
17 building standards. The commission shall compile the
18 recommendations by adoption cycle and by whether the
19 recommendations are for voluntary or mandatory green building
20 standards.

21 (b) If no state agency has the authority or expertise to propose
22 green building standards applicable to a particular occupancy, the
23 commission shall, after performing an analysis of existing green
24 building standards with state environmental, public health, and
25 safety goals, adopt, approve, codify, update, and publish green
26 building standards for those occupancies.

27 SEC. 3. Section 18930.6 is added to the Health and Safety
28 Code, to read:

29 18930.6. Prior to adoption, the commission shall define the
30 intent, criteria, and schedule for establishing voluntary green
31 building standards and for transitioning voluntary standards into
32 mandatory, codified standards.

33 ~~SEC. 4. Section 18931.6 of the Health and Safety Code is~~
34 ~~amended to read:~~

35 ~~18931.6. (a) Each city, county, or city and county shall collect~~
36 ~~a fee from any applicant for a building permit, assessed at the rate~~
37 ~~of _____ (\$_____) per one hundred thousand dollars (\$100,000) in~~
38 ~~valuation, as determined by the local building official, with~~
39 ~~appropriate fractions thereof, but not less than one dollar (\$1).~~

~~(b) The city, county, or city and county may retain not more than 10 percent of the fees collected under this section for related administrative costs and for code enforcement education, including, but not limited to, certifications in the voluntary construction inspector certification program, and shall transmit the remainder to the commission for deposit in the Building Standards Administration Special Revolving Fund established under Section 19831.7.~~

~~(c) The commission may reduce the rate of the fee upon determining that a lesser amount is sufficient to maintain the programs established under this part.~~

~~SEC. 5.~~

~~SEC. 4.~~ Section 18931.7 of the Health and Safety Code is amended to read:

18931.7. (a) All funds received by the commission under this part shall be deposited in the Building Standards Administration Special Revolving Fund, which is hereby established in the State Treasury.

(b) Moneys deposited in the fund shall be available, upon appropriation, to the commission, the department, and the Office of the State Fire Marshal for expenditure in carrying out the provisions of this part, and the provisions of Part 1.5 (commencing with Section 17910) that relate to building standards, as defined in Section 18909, with emphasis placed on the analysis performed pursuant to subdivision (b) of Section 18930.5, development, adoption, publication, updating, verification protocols, *including, but not limited to, training and guidance for local building officials in jurisdictions that have adopted Tier 1 or Tier 2 green building standards*, and educational efforts associated with green building standards.

~~SEC. 6.~~

~~SEC. 5.~~ Section 18940.5 is added to the Health and Safety Code, to read:

18940.5. During the 2016 code adoption cycle, the commission shall integrate all provisions of the California Green Building Standards Code (Part 11 of Title 24 of the California Code of Regulations) into the appropriate sections of Part 1 to 10, inclusive, of Title 24 of the California Code of Regulations. The commission

- 1 may publish or allow to be published a guide to the green building
- 2 standards as an appendix to the code.

O